



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, मंगलवार, 17 मार्च, 1998/ 26 फाल्गुन, 1919

हिमाचल प्रदेश सरकार

राजस्व विभाग

अधिसूचना

शिमला-2, 5 मार्च, 1998

संख्या: रैब० बी० ए० (3)-6/96.—हिमाचल प्रदेश टेनेन्सी एण्ड लैण्ड रिफॉर्मज रूलज, 1975 में और संशोधन करने के लिए हिमाचल प्रदेश टेनेन्सी एण्ड लैण्ड रिफॉर्मज, एक्ट, 1972 की धारा-123 के अधीन यथा आपेक्षित - हिमाचल प्रदेश टेनेन्सी एण्ड लैण्ड रिफॉर्मज (संशोधित) रूलज, 1997 का संशोधन प्रारूप, इस विभाग की समसंख्यांक अधिसूचना तारीख 7 जनवरी, 1998 द्वारा राजपत्र, (असाधारण) हिमाचल प्रदेश में इससे सम्भाव्य प्रभावित होने वाले व्यक्तियों से, इनके प्रकाशन की तारीख से तीस दिन की अवधि के भीतर आक्षेप और सुझाव आमन्त्रित करने के लिए प्रकाशित किया गया था;

और नियत अवधि के भीतर, जन साधारण से इस निमित कोई आक्षेप या सुझाव प्राप्त नहीं हुआ है/हुए हैं;

अतः हिमाचल प्रदेश की राज्यपाल, हिमाचल प्रदेश टेनेन्सी एण्ड लैंड रिफॉर्मज ऐक्ट, 1972 (1974) का 8) की धारा-122 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात :-

1. संक्षिप्त नाम .—इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश टेनेन्सी एण्ड लैंड रिफॉर्मज (संशोधन) नियम, 1998 है।

2. नियम 38-ए का संशोधन .—हिमाचल प्रदेश टेनेन्सी एण्ड लैंड रिफॉर्मज नियम, 1975 (जिन्हें इसमें इसके पश्चात् उक्त नियम कहा गया है, के नियम 38-ए में :-

(क) उप नियम (1) और (2) के स्थान पर निम्नलिखित उप-नियम प्रतिस्थापित किए जाएंगे, अर्थात :-

“(1) Where a non-agriculturist intends to acquire land in his name by way of sale, gift, will, exchange, lease or mortgage with possession, he shall apply for permission under clause (h) of sub-section (2) of section-118 of the Act in Form-XIV duly supported with the documents specified, to the Collector in whose jurisdiction the land is situated :

(2) (a) On receipt of the application complete in all respects under sub-rule (1), the Collector shall, after calling for the information from the revenue staff in Form LR-XV and holding such enquiry as he may deem fit, verify the title of the land in question and if he is of the opinion that the application should be accepted, he shall recommend application within a period of 30 days from the date of its receipt by him the Government to for its consideration ;

(b) On receipt of the recommendations made by the Collector under clause (a) of this sub-rule, the State Government shall consider the application and allow or reject the application ;

(c) The applicant shall be informed of every order passed by the State Government under clause (b) of this sub-rule; and

(d) Any applicant, whose application has been rejected, may within 60 days of the date of order of rejection, apply to the State Government to review the order and the Government may, after making such further inquiry as it may think fit, pass such order as it considers necessary ;

Provided that the State Government may entertain the review application after the expiry of the said period of 60 days, if it is satisfied that the applicant was prevented by sufficient cause from filing the review application in time.”

(ख) उप नियम (3) में,--

(1) खण्ड (एफ) के पश्चात् निम्नलिखित खण्ड जोड़े जाएंगे अर्थात :-

“(g) for construction of houses and flats. an area not exceeding 1500 sq. mts.

(h) for setting up of hydel projects. areas as recommended and approved by the M. P. P. & Power Department of the State.

(2) अन्त में निम्नलिखित द्वितीय प्ररन्तुक अन्तः स्थापित किया जाएगा, अर्थात :-

“Provided further that the State Government may for reasons to be recorded in writing, extend the said period of 180 days.”

3. नियम 38 बी का प्रतिस्थापन.—उक्त नियमों के नियम 38 बी के स्थान पर निम्नलिखित

नियम प्रतिस्थापित किया जाएगा, अर्थात् :—

“38-B Execution of orders for vestment of land—The District Collector within his jurisdiction shall pass an order regarding vestment of land/buildings together with structures or other attachments, if any, under sub-section (2) or sub-section (3D) of section 118 of the Act, as the case may be, in the State Government, and,—

- (i) the order of such vestment and delivery of possession of immovable property shall be executed in the same manner as provided in the code of Civil Procedure for the time being in force in respect of the execution of a decree whereby a Civil Court has adjudged ejectment from or delivery of possession of such property; and
- (ii) in execution of these order the Revenue Officer shall have all the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in clause (i) supra.

4. प्ररूप एल0ग्रार0 XIV का प्रतिस्थापना :—उक्त नियमों से संलग्न फार्म एल0ग्रार0 XIV के स्थान पर निम्नलिखित फार्म एल0ग्रार0 XIV प्रतिस्थापित किया जाएगा, अर्थात् :—

FORM LR-XIV

(See sub-rule (i) of Rule-38-A)

APPLICATION FOR PERMISSION REQUIRED UNDER SUB-RULE (I) OF RULE 38-A OF THE HIMACHAL PRADESH TENANCY AND LAND REFORMS RULES, 1975

PART-I

1. Name of the applicant.....son/daughter/wife of....., resident of Village....., Tehsil....., District.....
2. Permanent address : Village/Town....., Tehsil....., District....., State.....
3. Present occupation and address.....
4. Purpose for which the land is required.....
5. Particulars of the land applied for:—
 - (i) District
 - (ii) Tehsil
 - (iii) Number of estate (Hadbast) with name of Estate
 - (iv) Khata/Khatoni/Khasra Numbers alongwith total No. of kitas with area and classification of land.....
6. Particulars of the land holder from whom land is intended to be transferred.....
Name.....son/daughter/wife of....., resident of village....., Tehsil....., District.....

7. Whether the applicant applied previously for such permission if so, give the following particulars:—

- (a) Date of application, if known.
- (b) Whether permission granted or refused (the date of order of the State Government).
- (c) Particulars of land permitted to be transferred previously:—

- (i) District
- (ii) Tehsil
- (iii) Name of Estate with Hadbast number
- (iv) Khasra Number with area and classification

8. Any other information which the applicant considered to be relevant.

I solemnly affirm and declare:—

That whatever has been stated above is true to the best of my knowledge and belief and that nothing has been concealed or suppressed.

Signature of the applicant
Addressed

Dated :
Remarks of the Collector.

Signature of Collector
District.....
Dated.....

PART-II

(DOCUMENTS TO BE ENCLOSED WITH THE APPLICATION FOR PERMISSION)

- (I) Latest copy of jamabandi and tatima shajra.
- (II) Certificate of permanent residence issued by the Tehsildar or the Magistrate of the area concerned.
- (III) Copy of the agreement arrived at by the transferer and transferee.
- (IV) Affidavit of the transferer stating that he, after the proposed transfer, will not become landless, and if so he will not claim any benefit/land under any scheme prepared for the benefit of the landless persons in the State.
- (V) Affidavit of the transferee;—
 - (i) Stating that he has not earlier acquired any land for the same purpose either in his own name or in the name of his family, with the permission of the State Government under clause (h) of sub-section (2) of section-118.
 - (ii) stating that the land to be transferred is fit to be used for the purpose for which it is being transferred.
 - (iii) undertaking that he will use the land proposed to be transferred, for the same purpose for which it is sought to be transferred.
- (VI) No objection in the form of affidavit from the co-sharers of the land proposed to be transferred.

(VII) No objection certificate,—

- (i) Where land to be transferred is abutting the State or the National Highways from the Public Works Department.
- (ii) Where the land to be transferred is located in an area where the provisions of Himachal Pradesh Town & Country Planning Act, 1977 are applicable, from the Town and Country Planning authority concerned.
- (iii) Where the land to be transferred is located in a Municipal area from the Municipality concerned:

Provided that where such establishment unit of project requires more land for its expansion, the application shall also be accompanied by the utilization certificate of the land already held by it.

(VIII) In case officers/employees of the Government and Public undertakings/autonomous bodies, a copy of permission of the employer.

(IX) In case of commercial establishments tourism units, industrial and hydel projects, in addition to the documents specified against items I to VII, the following documents shall be enclosed;—

- (a) Essentiality Certificate from Industries Department in case industrial unit is to be set up.
- (b) Essentiality Certificate from Tourism Department in case of tourism unit is to be set up.
- (c) Essentiality Certificate from Department of M. P. P. & Power of the Government of Himachal Pradesh, in case of setting up of hydel projects.
- (d) Essentiality Certificate from concerned Deputy Commissioner in case land is proposed to be purchased for the purpose of Charitable/Religious/Public utility.

(X) In case of sick units,—

Where the Industrial unit/Hydel project/Tourism unit turns sick/non-functional and the land of such units is proposed further to be transferred to another entrepreneur either directly or through any Himachal Pradesh State Financial Institution/Himachal Pradesh State Industrial Development Corporation, the following documents shall be enclosed:—

- (a) the Essentiality Certificate from the concerned Department.
- (b) Latest copy of jamabadi and tatima shajra in case of sub-division of Khasra number (s).
- (c) the agreement arrived at between the two parties, in case the unit is proposed to be transferred directly.
- (d) no objection certificate from the Himachal Pradesh Financial Institution/Himachal Pradesh State Industrial Development Corporation for such transfer”.

5. प्ररूप एल0आर0 XV का जोड़ा जाना :—उक्त नियमों के संलग्न प्ररूप एल0 आर0 XIV के पश्चात् निम्नलिखित प्ररूप - XV जोड़ा जाएगा, अर्थात् :—

“FORM LR-XV

[See sub-rule (2) (a) of Rule 38-A]

(To be filled up by the Revenue Officials/officers after the spot inspections)

| Sl. No. | Point regarding | Remarks |
|---------|-----------------|---------|
|---------|-----------------|---------|

| | | |
|----|--|--|
| 1. | Whether land is free from all incumbrances ? | |
|----|--|--|

2. Whether the seller is dependent on agriculture. If so the area of land remaining with him after the land as proposed is transferred/sold. In either case, the source of income alongwith annual income of the transferer ?
3. Whether land proposed to be transferred/sold has been acquired by the seller under any of the landless/Nautor schemes/tenancy law ?
4. Whether there is no public path/religious place, cremation ground/graveyard, source of water, power line on the land porposed to be sold/purchased ?
5. Whether there are trees on the land to be purchased/sold. If so, the number of trees alongwith classification of trees ?
6. Whether the proposed land is abutting the Government land. If so whether the demarcation has been done by the competent authority ?
7. Whether land falls under the provision of ceiling surplus law ?
8. Whether there are any structure standing on land which is porposed to be purchased/sold ?
9. Whether the land proposed to be purchased falls under the jurisdiction of Town and Country Planning Department. If so, the permission so obtained from that Department ?
10. Whether the land proposed to be purchased is adjoining to any National Highway or any road of the H. P. P. W. D. if so, permission share or the obtained from that Department ?
11. In case the land proposed to be sold is owned by more than one person, the seller be made clear.

*Designation/Signatures
of the Revenue Official/Officer
who had made sopt inspection.*

Dated :

Recommendations of the Collector.

Date :

Signature of the Collector".

आदेश द्वारा,
हर्ष गुप्ता,
वित्तायुक्त एवं सचिव (राजस्व) ।

[Authoritative English Text of Government Notification No. Rev. B. A. (3)/96, dated 5th March, 1998 as required under Article 348 (3) of the Constitution of India].

NOTIFICATION

Shimla-171002, the 5th March, 1998

No. Rev. B. A. (3) 6/96.—Whereas the draft amendment rules entitled the Himachal Pradesh Tenancy and Land Reforms (Amendment) Rules, 1997, further to amend the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, were published, as required under section 123 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, in Himachal Pradesh Rajptra (Extraordinary), vide notification of even number, dated the 7th January, 1998 for inviting objections

and suggestions from the persons to be affected thereby within a period of 30 days from of their publication ;

And whereas no objections/suggestions have been received from the general public within the stipulated period ;

Now, therefore, the Governor of Himachal Pradesh, in exercise of the powers conferred by section 122 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974), is pleased to make the following rules, namely:—

1. *Short title*:—These rules may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Rules, 1998.

2. *Amendment of Rule 38-A*:—In rule 38-A of the Himachal Pradesh Tenancy and Land Reforms Rules, 1975 (hereinafter called the said rules):—

(a) for sub-rules (1) and (2) the following sub-rules shall be substituted, namely:—

“(1) Where a non-agriculturist intends to acquire land in his name by way of sale gift, will, exchange, lease or mortgage with possession, he shall apply for permission under clause (h) of sub-section (2) of section 118 of the Act, in Form LR-XIV duly supported with the documents specified, to the Collector in whose jurisdiction the land is situated ;

(2) (a) On receipt of the application, complete in all respects under sub-rule (1), the Collector shall, after calling for the information from the revenue staff in form LR-XV and holding such enquiry as he may deem fit, verify the title of the land in question and if he is of the opinion that the application should be accepted, he shall recommend application within a period of 30 days from the date of its receipt by him to the State Government for its consideration ;

(b) On receipt of the recommendations made by the Collector under clause (a) of this sub-rule, the State Government shall consider the application and allow or reject the application ;

(c) The applicant shall be informed of every order passed by the State Government under clause (b) of this sub-rule ; and

(d) Any applicant, whose application has been rejected, may, within 60 days of the date of order of rejection, apply to the State Government to review the order and the Government may, after making such further inquiry as it may think fit, pass such order as it considers necessary ;

Provided that the State Government may entertain the review application after the expiry of the said period of 60 days, if it is satisfied that the applicant was prevented by sufficient cause from filing the review application in time.”

(b) In sub-rule (3),—

(i) after clause (f) the following clauses shall be added, namely:—

“(g) for construction of houses & flats . . . an area not exceeding 1500 sq. mts.

(h) for setting up of hydel projects . . . area as recommended & approved by the M P P. & Power Department of the State.

(ii) at the end, the following second proviso shall be inserted, namely:—

“Provided further that the State Government may for reasons to be recorded in writing extend the said period of 180 days.

3. *Substitution of Rule 38-B*.—For rule 38-B of the said rules, the following shall be substituted, namely:—

“38-B *Execution of orders for vestment of Land*.—The District Collector within his jurisdiction shall pass an order regarding vestment of land/buildings together with structures or other attachments, if any, under sub-section (2) or sub-section (3D) of section 118 of the Act, as the case may be, in the State Government, and:—

- (i) the order of such vestment and delivery of possession of immovable property shall be executed in the same manner as provided in the Code of Civil Procedure for the time being in force in respect of the execution of a decree whereby a Civil Court has adjudged ejectment from or delivery of possession of such property ; and
- (ii) in execution of these orders the Revenue Officer shall have all the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree of the description mentioned in (i) supra.”

4. *Substitution of Form LR-XIV*.—For Form LR-XIV appended to the said rules, the following Form LR-XIV shall be substituted, namely:—

“FORM LR-XIV”

[See Sub-rule (1) of Rule-38-A]

APPLICATION FOR PERMISSION REQUIRED UNDER SUB RULE (1) OF RULE 38-A OF THE HIMACHAL PRADESH TENANCY AND LAND REFORMS RULES, 1975

PART-I

1. Name of the applicant....., Son/ Daughter/Wife of resident of Village....., Tehsil....., District.....

2. Permanent address Village/Town....., Tehsil....., District..... State.....

3. Present occupation and address..... :

4. Purpose for which the land is required.

5. Particulars of the land applied for :

(i) District.

(ii) Tehsil.

(iii) Number of estate (Hadbast) with name of Estate.

(iv) Khata/ Khatoni/ Khasra Numbers alongwith total No. of Kitas with area and classification of land.....

6. Particulars of the land holder from whom land is intended to be transferred. Name.....son/daughter/Wife of....., resident of Village....., Tehsi....., District

7. Whether the applicant applied previously for such permission if so, give the following particulars:—

- (a) Date of application, if known.
- (b) Whether permission granted or refused (the date of order of the State Government).
- (c) Particulars of land permitted to be transferred previously:—

- (i) District
- (ii) Tehsil
- (iii) Name of Estate with Habdast number
- (iv) Khasra number with area and classification

8. Any other information which the applicant consider to be relevant.
Solemnly affirm and declare:—

That whatever has been stated above is true to the best of my knowledge and belief and that nothing has been concealed or suppressed.

Dated :
Remarks of the Collector.

Signature of the Applicant.
Address.....
.....

Signature of the Collector
District.....
Dated.....

PART-II

(DOCUMENTS TO BE ENCLOSED WITH THE APPLICATION FOR PERMISSION)

- (I) Latest copy of Jamabandi and tatima shajra.
- (II) Certificate of permanent residence issued by the Tehsildar or the Magistrate of the area concerned.
- (III) Copy of agreement arrived at by the transferer and the transferee.
- (IV) Affidavit of the transferer stating that he, after the proposed transfer, will not become landless, and if so he will not claim any benefit/land under any scheme prepared for the benefit of the landless persons in the State.
- (V) Affidavit of the transferee:—
 - (i) stating that he has not earlier acquired any land for the same purpose either in his own name or in the name of his family, with the permission of the State Government under clause (h) of sub-section (2) of section -118.
 - (ii) stating that the land to be transferred is fit to be used for the purpose for which it is being transferred.
 - (iii) undertaking that he will use the land, proposed to be transferred, for the same purpose for which it is sought to be transferred.
- (VI) No objection in the form of affidavit from the co-sharers of the land proposed to be transferred.

(VII) No objection certificate:—

- (i) where land to be transferred is abutting the State or the National Highways, from the Public Works Department.
- (ii) where the land to be transferred is located in an area where the provisions of Himachal Pradesh Town and Country Planning Act, 1977 are applicable, from the Town and Country Planning authority concerned.
- (iii) where the land to be transferred is located in a Municipal area from the Municipality concerned:

Provided that where such establishment unit or project requires more land for its expansion the application shall also be accompanied by the utilization certificate of the land already held by it.

(VIII) In case of officers/employees of the Government and public undertakings/autonomous bodies, a copy of permission of the employer.

(IX) In case of commercial establishments, tourism units, industrial and hydel projects, in addition to the documents specified against items I to VII, the following documents shall be enclosed:—

- (a) Essentiality certificate from Industrial Department in case industrial unit is to be set up.
- (b) Essentiality Certificate from Tourism Department in case of tourism unit is to be set up.
- (c) Essentiality Certificate from Department of M P P & Power of the Government of Himachal Pradesh, in case of setting up of hydel projects.
- (d) Essentiality Certificate from concerned Deputy Commissioner in case land is proposed to be purchased for the purpose of Charitable/Religious/Public utility.

(X) In case of Sick Units,—

Where the Industrial unit/Hydel project/Tourism unit turns sick/non-functional and the land of such unit is proposed further to be transferred to another entrepreneur either directly or through any Himachal Pradesh State Financial Institution/ Himachal Pradesh State Industrial Development Corporation, the following documents shall be enclosed:—

- (a) the Essentiality Certificate from the concerned Department,
- (b) latest copy of jumabandi and tatima shajra in case of sub-division of Khasra number (s);
- (c) the agreement arrived at between the two parties, in case the unit is proposed to be transferred directly;
- (d) no objection certificate from the Himachal Pradesh Financial Institutions/ Himachal Pradesh State Industrial Development Corporation for such transfer."

5. *Addition of Form LR-XV.*—After Form LR-XIV, appended to the said rules, the Following Form LR-XV shall be added, namely:—

"FORM LR-XV"
[See sub-rule (2) (a) of Rule 38-A]

(TO BE FILLED UP BY THE REVENUE OFFICIALS/OFFICERS AFTER THE SPOT INSPECTIONS)

| Sl. No. | Point regarding | Remarks |
|---------|--|---------|
| 1 | Whether land is free from all incumbrances | |

2. Whether the seller is dependent on agriculture. If so the area of land remaining with him after the land as proposed is transferred/ sold. In either case, the source of income alongwith annual income of the transferer?
3. Whether land proposed to be transferred/ sold has been acquired by the seller under any of the landless/ Nautor schemes/tenancy law ?
4. Whether there is no public path/religious place, cremation ground/graveyard, source of water, power line, on the land proposed to be sold/purchased?
5. Whether there are trees on the land to be purchased/sold. If so, the number if trees alongwith classification of trees?
6. Whether the proposed land is abutting the Government land. If so whether the demarcation has been done by the competent authority ?
7. Whether land falls under the provision of ceiling surplus law ?
8. Whether there are any structure standing on land which is proposed to be purchased/sold ?
9. Whether the land proposed to be purchased falls under the jurisdiction of Town and Country Planning Department. If so the permission so obtained from that Department ?
10. Whether the land proposed to be purchased is adjoining to any National Highway or any road of the H. P. W. D. If so, permission obtained from that Department ?
11. In case the land proposed to be sold is owned by more than one person, the share of the seller be made clear.

Dated :
Recommendations of the Collector.

Date :

*Designation/ Signatures
of the Revenue Official/Officer
who had made spot inspection.*

Signatures of the Collector."

By Order,
HARSH GUPTA,
F. C. - cum-Secretary.

